

**Amendment and Response**

Serial No.: 10/051,719

Confirmation No.: 8633

Filed: 16 January 2002

For: ANTISPETIC COMPOSITIONS AND METHODS

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**Remarks**

The Office Action mailed 20 January 2006 has been received and reviewed. Claims 15, 39-42, and 58 having been amended, the pending claims are claims 2-12, 14-37, 39-43, 54-56, and 58-63. Support for the amendment regarding available iodine content is in Applicants' specification at page 12, lines 16-18. Reconsideration and withdrawal of the rejections are respectfully requested.

**Interview Summary Record**

Applicants thank Examiners Choi and Richter for the courtesy extended in the telephone interview dated 10 May 2006 with Ann Mueting (Applicants' Representative), Matt Scholz, and Dan MacIntyre.

During the interview allowable subject matter was discussed. It was agreed that amendments presented herein would be submitted by Applicants, entered by the Examiner, and that these amendments would overcome the rejections under 35 U.S.C. §§112 and 103.

**Obviousness-Type Double Patenting Rejection**

Claims 2-12, 14-37, 39-43, 54-56, and 58-63 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-7, 16-25, 27, 29-44, and 47-60 of co-pending Application No. 10/922,262 or claims 1-7, 16-25, 27, 29-44, and 47-59 of U.S. Patent No. 6,838,078 in view of Kross et al. (U.S. Patent No. 5,618,841), Beach (U.S. Patent No. 3,380,923), Talwalker et al. (U.S. Patent No. 5,462,714), Richter et al. (U.S. Patent No. 6,379,685), and Samour et al. (U.S. Patent No. 5,807,957). Upon an indication of otherwise allowable subject matter and in the event this rejection is maintained, Applicants will provide an appropriate response. However, in view of the fact that co-pending Application No. 10/922,262 has not as yet been allowed, it is believed that this rejection is moot.

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**The 35 U.S.C. §112, First Paragraph, Rejection**

The Examiner rejected claim 15 under 35 U.S.C. §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, the Examiner alleged since it is uncertain what is and is not included within the scope of the limitation "derivative" it does not appear that the prior art of record enables one of ordinary skill in the art to use of any derivative with the expectation that it would be suitable as a buffer in the claimed invention. As such, the Examiner alleged that it appears that predictability in the prior art of record appears to be low as to "derivatives." This is respectfully traversed; however, claim 15 has been amended to remove this term solely in the interest of expediting prosecution. Applicants reserve the right to pursue claims reciting this term in a continuing application.

The Examiner rejected claims 2-12, 14-37, 39-43, 54-56, and 58-63 under 35 U.S.C. §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Specifically, the Examiner alleged that one of ordinary skill in the art: 1) would not be able to predict or would have a low probability of predicting from the prior art which other compositions containing the claimed components would or would not be stable; 2) would still have to do undue experimentation to determine what combinations of specified components as well as unspecified components can be combined which would result in a stable composition. This rejection is respectfully traversed. All claims recite that the composition is stable or a dry film of the composition is stable. The term "stable" is clearly described in Applicants' specification, e.g., at page 6, lines 19-25, and page 60. Also, Applicants provide nearly 100 examples, including comparative examples, that guide one of skill

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in the art to select components of the composition without undue experimentation. Therefore, withdrawal of this rejection is requested.

### The 35 U.S.C. §103 Rejection

The Examiner rejected claims 2-12, 14-37, 39-43, 54-56, and 58-63 under 35 U.S.C. §103 as being unpatentable over Kross et al. (U.S. Patent No. 5,618,841) in view of Beach (U.S. Patent No. 3,380,923), Talwalker et al. (U.S. Patent No. 5,462,714), Richter et al. (U.S. Patent No. 6,379,685) and Samour et al. (U.S. Patent No. 5,807,957). This rejection is respectfully traversed. Applicants reserve the right to present arguments in a continuing application for patentability of the previously pending claims.

It is respectfully submitted that there is no teaching or suggestion of the claimed composition with the recited combination of components, in particular, with an available iodine concentration of no more than about 1.5 wt-% and a hydrocarboxylic acid buffer in an amount in excess of 5 wt-%, as acknowledged by the Examiners in the telephone interview. Applicants reserve the right to present arguments in a continuing application for patentability of the previously pending claims.

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Summary

It is respectfully submitted that the pending claims 2-12, 14-37, 39-43, 54-56, and 58-63 are in condition for allowance and notification to that effect is respectfully requested. The Examiner is invited to contact Applicants' Representatives, at the below-listed telephone number, if it is believed that prosecution of this application may be assisted thereby.

Respectfully submitted

By

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CERTIFICATE UNDER 37 CFR §1.8:

The undersigned hereby certifies that the Transmittal Letter and the paper(s), as described hereinabove, are being transmitted by facsimile in accordance with 37 CFR §1.6(d) to the Patent and Trademark Office, addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 11<sup>th</sup> day of April, 2006, at 12:37 p.m. (Central Time).

By: Rachel Englandt GebhardtName: Rachel Englandt Gebhardt